



Written by [Joe Wolverton, II, J.D.](#) on February 1, 2011

## Federal Judge in Florida Declares ObamaCare Unconstitutional

On Monday, U.S. District Court Judge Roger K. Vinson of the Northern District of Florida ruled that the ObamaCare scheme is unconstitutional. In a departure from a similar ruling in a complaint filed in a Virginia federal court, Judge Vinson, a Reagan appointee, declined to sever the individual mandate from the rest of the legislation's provision, opting instead to declare that the entirety of the law violates the Constitution.



From the first few paragraphs of his [78-page ruling](#), Judge Vinson sets the foundation for the structure of his decision. He begins by quoting James Madison's words as written in [Federalist No. 51](#):

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

He then proceeds to rehearse the outlines of federalism, or dual sovereignty, that the founders sought to establish, citing the Federalist Papers and the Tenth Amendment.

In establishing our government, the Founders endeavored to resolve Madison's identified "great difficulty" by creating a system of dual sovereignty under which '[t]he powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.' The Federalist No. 45, at 311 (Madison); see also U.S. Const. art. I, § 1 (setting forth the specific legislative powers 'herein granted' to Congress). When the Bill of Rights was later added to the Constitution in 1791, the Tenth Amendment reaffirmed that relationship: 'The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.'

The Framers believed that limiting federal power, and allowing the 'residual' power to remain in the hands of the states (and of the people), would help 'ensure protection of our fundamental liberties' and "reduce the risk of tyranny and abuse.'

The ruling itself was handed down in the case filed by 26 states, two private citizens, and the National Federation of Independent Business. The defendants named in the complaint were the United States Department of Health and Human Services, the Department of Treasury, the Department of Labor, and their secretaries.



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As stated above, Judge Vinson refused to attempt to extricate the individual mandate — the portion of the Obamacare package that would force all Americans to purchase a qualifying medical care insurance policy by 2014 — from the rest of the Obamacare law declaring in dictum that, “The act, like a defectively designed watch, needs to be redesigned and reconstructed by the watchmaker.”

Although the judge did not enjoin or suspend the law, he did grant the plaintiff’s motion for summary judgment and declaratory relief, thus declaring the law unconstitutional. Although he did not specifically enjoin the law, he reminded the officers of the federal government that according to precedent, “declaratory judgment is, in a context such as this where federal officers are defendants, the practical equivalent of specific relief such as an injunction....”

After holding that enacting the individual mandate of Obamacare was beyond the enumerated power granted to Congress in the Commerce Clause, Judge Vinson dismissed the defendants’ assertion that while perhaps not found in the enumerated powers as such, the Congress’s right to legislate in this arena is inherent in the powers vested in Congress by the Necessary and Proper Clause. Wrote Judge Vinson:

The Necessary and Proper Clause cannot be utilized to “pass laws for the accomplishment of objects” that are not within Congress’ enumerated powers. As the previous analysis of the defendants’ Commerce Clause argument reveals, the individual mandate is neither within the letter nor the spirit of the Constitution. To uphold that provision via application of the Necessary and Proper Clause would authorize Congress to reach and regulate far beyond the currently established “outer limits” of the Commerce Clause and effectively remove all limits on federal power.

Along those lines, Vinson further reasoned that:

It is difficult to imagine that a nation which began, at least in part, as the result of opposition to a British mandate giving the East India Company a monopoly and imposing a nominal tax on all tea sold in America, would have set out to create a government with the power to force people to buy tea in the first place.

The reaction to Judge Vinson’s ruling has been predictably mixed. The attorneys for the defense [issued a statement](#) promising to continue the fight:

There is clear and well-established legal precedent that Congress acted within its constitutional authority in passing this law and we are confident that we will ultimately prevail on appeal.

Lawyers for the states that filed the suit, on the other hand, were adamant that “with regard to all parties to this lawsuit, the statute is dead.”

Despite the granting of summary judgment and the declaring of the Obamacare law to be unconstitutional, the issue will be appealed and is likely to end up before the Supreme Court in a year or two. The next step in the appellate process, however, will likely be the filing of an appeal to the Eleventh Circuit Court of Appeals in Atlanta, considered by many to be one of the nation’s most conservative federal benches.

While this latest ruling is encouraging to opponents of Obamacare and friends of the Constitution and state sovereignty, there is another aspect to the fight against the overreaching of the federal government that will never be finally settled by recourse to the federal court system. Principally because, as this author was quoted in an article written by [The New American’s](#) Kelly Holt:



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The suits are ultimately doomed as they are, in essence, asking a branch of the federal government to undo the act of a sister branch. While such decisions might be handed down by this or that federal court, there will never be an absolute jurisprudential repeal of ObamaCare, as Congress, if determined will find ways around contrary holdings of judges.

Nullification is accomplished when states exercise their sovereignty by setting aside laws passed by the national legislature that exceed its constitutional power. Any measure passed by Congress that doesn't conform to the express, limited, and enumerated powers granted to it therein by the people and the states, is null and has not the force of law.

Outside the Constitution, there is no law.

So, while constitutionalists rightly praise Judge Vinson's sound legal decision declaring Obamacare unconstitutional, the final nail in the coffin of this unprecedented usurpation of power will only be firmly and finally fixed if it is driven by the hammer of nullification held in the hands of the sovereign states and the people in whom rests the ultimate right to rule.

*Photo: Pensacola courthouse, United States District Court for the Northern District of Florida*





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